

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

CHRISTIAN ANDRADE, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 2:11cv523
	)	
SHAPIRO & BURSON, LLP, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFFS' MEMORANDUM IN RESPONSE TO DEFENDANTS'  
MOTION TO DISMISS AND IN SUPPORT OF PLAINTIFFS'  
MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

COME NOW the Plaintiffs, by counsel, and for their Memorandum in Response to Defendants' Motion to Dismiss and in support of Plaintiff's Motion for Leave to File Amended Complaint, they state as follows:

Plaintiffs commenced this case with a Complaint pleading both Federal claims under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, et seq., as well as multiple supplemental state law claims. Defendants filed a Motion to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6), and devoted the major part of its brief to the state law claims. Whether or not these claims could or would survive such motion, they are ancillary or secondary to the Plaintiff's primary claims – those prosecuted as Counts I through VIII of the original Complaint and brought under the FDCPA.

Accordingly, Plaintiffs move the Court for leave to file their First Amended Complaint, and to moot Defendants' Motion without prejudice to, as they determine appropriate, refile as to the FDCPA claims within the more limited First Amended Complaint. Defendants will not only not suffer prejudice, as the case has just commenced and this is the first amendment, but in fact

they will benefit from the opportunity as they deem necessary to prosecute a focused motion more extensively addressing the Plaintiff's primary (and now only) claims.

**CHRISTIAN ANDRADE, et al.,**

/s/

---

Leonard A. Bennett (VSB #37523)  
Matthew J. Erausquin (VSB # 65434)  
CONSUMER LITIGATION ASSOCIATES P.C.  
763 J. Clyde Morris Boulevard, Suite 1-A  
Newport News, VA 23601  
(757) 930-3660  
(757) 930-3662 facsimile  
[lenbennett@clalegal.com](mailto:lenbennett@clalegal.com)  
[matt@clalegal.com](mailto:matt@clalegal.com)

Matthew J. Erausquin, VSB# 65434  
Leonard A. Bennett, VSB# 37523  
*Counsel for the Plaintiffs*  
CONSUMER LITIGATION ASSOCIATES, P.C.  
1800 Diagonal Road, Suite 600  
Alexandria, VA 22314  
Tel: (703) 273-7770  
Fax: (888) 892-3512  
[matt@clalegal.com](mailto:matt@clalegal.com)  
[lenbennett@clalegal.com](mailto:lenbennett@clalegal.com)

Dale W. Pittman, VSB# 15673  
*Counsel for the Plaintiffs*  
THE LAW OFFICE OF DALE W. PITTMAN, P.C.  
The Eliza Spotswood House  
112-A West Tabb Street  
Petersburg, VA 23803  
Tel: (804) 861-6000  
Fax: (804) 861-3368  
[dale@pittmanlawoffice.com](mailto:dale@pittmanlawoffice.com)

Kristi Cahoon Kelly, VSB# 72791  
*Counsel for the Plaintiffs*  
SUROVELL, ISAACS, PETERSEN & LEVY, PLC  
4010 University Drive, Suite 200

Fairfax, VA 22030  
Tel: (703) 277-9774  
Fax: (703) 591-9285  
[kkelly@siplfirm.com](mailto:kkelly@siplfirm.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of January 2012, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification to the following:

Bizhan Beiramee, Esquire (VSB # 50918)  
Bizhan Beiramee, Esquire, P.C.  
6663 B Old Dominion Drive, 3rd Floor  
McLean, Virginia 22101  
Email: [bbeiramee@beiramee.com](mailto:bbeiramee@beiramee.com)

*Counsel for Defendant*

\_\_\_\_\_/s/  
Leonard A. Bennett (VSB #37523)  
Matthew J. Erausquin (VSB # 65434)  
CONSUMER LITIGATION ASSOCIATES P.C  
763 J. Clyde Morris Boulevard, Suite 1-A  
Newport News, VA 23601  
(757) 930-3660  
(757) 930-3662 facsimile  
[lenbennett@clalegal.com](mailto:lenbennett@clalegal.com)  
[matt@clalegal.com](mailto:matt@clalegal.com)